

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Deshpande et al.

Serial No.: 09/791,153

Group Art Unit No.: 1644

Filed: February 22, 2001

Examiner: Schwadron, Ronald B.

For: Selective Binding Agents of
Osteoprotegerin Binding Protein

Confirmation No.: 7448

Docket No.: A-633A

**RESPONSE TO NOTICE OF NON-COMPLIANT AMENDMENT
AND PRELIMINARY AMENDMENT**

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

A response to the Notice of Non-Compliant Amendment dated July 22, 2009 and a Preliminary Amendment are filed herewith.

Amendments to the Claims are reflected in the listing of claims which begins on page 2 of this paper.

Remarks/Arguments begin on page 4 of this paper.

CERTIFICATE OF EFS-WEB TRANSMISSION

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being transmitted electronically through EFS-WEB to the Commissioner for Patents, P.O. Box 1450 Alexandria, VA 22313-1450, on the date appearing below.

Date: August 21, 2009

/Nola J. Diamond/

Nola J. Diamond

AMENDMENT

Please amend the claims as follows.

Listing of Claims

1-39. **(cancelled)**

40. **(currently amended)** An antibody or antigen binding domain which recognizes a DE epitope on human osteoprotegerin binding protein (OPGbp) wherein the DE epitope comprises the amino acid sequence from residues 212 to 250 of human OPGbp as shown in Figure 29 (SEQ ID NO: 158).

41. **(currently amended)** ~~An~~ The antibody or antigen binding domain of Claim 40 which recognizes a wherein the DE epitope comprises residues 230 to 234 of a human OPGbp as shown in Figure 29 (SEQ ID NO: 158).

42. **(currently amended)** The antibody or antigen binding domain of Claim 40 or 41 ~~wherein the DE epitope comprises~~ which recognizes the sequence Asp-Leu-Ala-Thr-Glu of human OPGbp.

43. **(original)** An antibody or antigen binding domain which binds to murine OPGbp comprising the amino acid substitutions S229D, V230L, P231A, and D233E, but does not bind to murine OPGbp lacking said substitutions.

44. **(currently amended)** The antibody or antigen binding domain of Claims 40, 41, 42 or 43 which inhibits the formation ~~of~~ or activation of osteoclasts.

45. **(original)** The antibody or antigen binding domain of Claims 40, 41, 42 or 43 which inhibits bone resorption.

46-51. (cancelled)

52. **(currently amended)** ~~A~~ The antibody or antigen binding domain of Claims 40, 41, 42 or 43 which binds selectively to human OPGbp with a dissociation constant (KD) of about 1nM or less.

53. **(currently amended)** ~~A~~ The antibody or antigen binding domain of Claims 40, 41, 42 or 43 which binds selectively to human OPGbp with a dissociation rate constant (kd) of about 3×10^{-3} or less.

54. **(new)** The antibody or antigen binding domain of Claims 40, 41, 42 or 43 wherein the antibody is a monoclonal antibody.

55. **(new)** The antibody or antigen binding domain of Claims 40, 41, 42 or 43 wherein the antibody is a chimeric, humanized, human, single chain or bispecific antibody.

56. **(new)** The antibody or antigen binding domain of Claims 40, 41, 42 or 43 wherein the antigen binding domain is a Fab, F(ab'), F(ab)'₂, Fv or sFv fragment.

57. **(new)** The antibody or antigen binding domain of Claims 40, 41, 42 or 43 which comprises an IgG isotype.

58. **(new)** A composition comprising the antibody or antigen binding domain of Claims 40, 41, 42 or 43 and a pharmaceutically acceptable agent.

Remarks/Arguments

The Claims

Claims 10-20, 27-29 and 40-53 are currently pending in the application with Claims 48-51 being withdrawn from further consideration as being drawn to a non-elected species.

Notice of Non-Complaint Amendment

In the communication of July 20, 2009, the Examiner noted that the amendments filed on December 19, 2007 and March 24, 2004 were considered non-compliant because Claims 48-51 drawn to non-elected species and withdrawn from further consideration were not indicated as "withdrawn" in the listing of claims.

Claims 48-51 have been cancelled in the Preliminary Amendment filed herewith, thereby bringing the amendment into compliance.

Preliminary Amendment

Applicants hereby cancel Claims 10-20, 27-29 and 46-51 without prejudice or disclaimer and add new Claims 54-58. Upon cancellation of these claims, Claims 40-45 and 52-58 will be pending in the application.

Claim 40 has been amended to recite an antibody or antigen binding domain which recognizes a DE epitope on human OPGbp "wherein the DE epitope comprises the amino acid sequence from residues 212 to 250 of human OPGbp as shown in Figure 29 (SEQ ID NO: 158)". Support for this amendment is found at p. 38, line 33 to p. 39, line 5 of the specification.

Claim 41 has been amended to recite a DE epitope that "comprises residues 230 to 234 of human OPGbp". Support for this amendment is found at p. 39, lines 12-18 of the specification.

New Claims 54-58 are supported at various locations in the specification, including p. 32, lines 8-12; p. 33, lines 5-12; and p. 72, lines 8-12 of the specification.

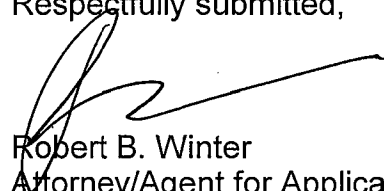
The new and amended claims do not add new matter or raise new issues requiring further searching and consideration. Applicants respectfully request entry of the new and amended claims.

CONCLUSION

Claims 40-45 and 52-58 are in condition for allowance and a notice thereof is solicited.

Although Applicants believe that no fee is due herewith, the Commissioner is hereby authorized to charge any fees which may be required, or credit any overpayment to Deposit Account No. 01-0519 in the name of Amgen Inc.

Respectfully submitted,



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Electronic Acknowledgement Receipt

EFS ID:	5935579
Application Number:	09791153
International Application Number:	
Confirmation Number:	7448
Title of Invention:	Selective binding agents of osteoprotegerin binding protein
First Named Inventor/Applicant Name:	Rajendra V. Deshpande
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Attorney Docket Number:	A-633A
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Application Type:	Utility under 35 USC 111(a)

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Submitted with Payment	no
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	Claims	2	3
	Applicant Arguments/Remarks Made in an Amendment	4	5

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New Applications Under 35 U.S.C. 111

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National Stage of an International Application under 35 U.S.C. 371

If a timely submission to enter the national stage of an international application is compliant with the conditions of 35 U.S.C. 371 and other applicable requirements a Form PCT/DO/EO/903 indicating acceptance of the application as a national stage submission under 35 U.S.C. 371 will be issued in addition to the Filing Receipt, in due course.

New International Application Filed with the USPTO as a Receiving Office

If a new international application is being filed and the international application includes the necessary components for an international filing date (see PCT Article 11 and MPEP 1810), a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) will be issued in due course, subject to prescriptions concerning national security, and the date shown on this Acknowledgement Receipt will establish the international filing date of the application.